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ABSTRACT

Legislative mandates on sexual discrimination do not necessarily guarantee enduring change, as is demonstrated by the reinterpretation by the United States Supreme Court of Title IX of the Education Amendments to the Civil Rights Act of 1964. In the landmark decision in "Grove City College v. Bell" in 1984, the court ruled that Title IX, which states that no person shall be subjected to discrimination under any educational program receiving federal assistance, was applicable only to the college's student financial aid program because it was the only program receiving federal funds. This article presents a case study of political action in California where a "State Title IX" law, which became known as the Sex Equity in Education Act, was signed into law in 1982. An account is provided of follow-up actions occurring as a result of women organizing and preparing a model for implementing the new law. Development and enactment of the California State "Title IX" bill is outlined, along with steps taken and the benefits received. Project ARISE is described, outlining model regulations for sex equity in education. Figures on women's employment and education are given citing slow or nonexistent growth. Nine references conclude the paper. (WTH)

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Formal Legal Rationality in Law Enactment vs. Actual Behavioral Change:

The Sex Equity in Education Act in California

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It has now been nearly twelve years since July of 1975 when the final regulations were issued for Title IX of the 1972 Education Amendments to the Civil Rights Act of 1964. Stating that, "No person in the United States shall be denied the benefits of, or be subjected to, discrimination under any educational program or activity receiving federal assistance," Title IX formally expressed a national concern with and mandated an ending of sex discrimination in the schools and colleges in the areas specified. Hard work by individuals, organizations and Members of Congress resulted in this historic legislation's being enacted and the establishment of systematic changes occurring in the nation's schools.

Although law enactment provided for a formal legal rationality--the "spirit of the law," i.e., in the policy statements, as well as the "letter of the law," i.e., in the issued regulations to follow in ensuing actual implementation leading to behavioral change--equity advocates learned that legislative mandates do not necessarily guarantee enduring change. Congressional intent can be reinterpreted as was the case with the Supreme Court in the landmark and long-awaited decision in Grove City College v. Bell in February of 1984. The Court ruled that Title IX applied only to the college's student-financial-aid program as it was the only program receiving federal funds through

Pell Grants to its students. In effect, the Court determined that in general Title IX need only apply to those specific programs and activities receiving federal financial assistance, rather than to the entire educational institution, thus taking a narrow interpretation of the law's provisions. Since then, Congress has tried three times, without success, to pass an omnibus civil rights act to restore a broader interpretation of Title IX and other civil rights laws, such as Title VI of the 1964 Civil Rights Act (barring bias on the basis of race, religion, and national origin); Section 504 of the Rehabilitation Act of 1973 (barring discrimination against the handicapped); and the Age Discrimination Act of 1975.

The Grove City College decision, thus, was a victory of sorts for those non-equity advocates and to those following a narrow interpretation of wording in Title IX. However, it also served to reinforce the conviction and commitment of many individuals and groups holding a pro-equity position that other measures, besides formal legal rationality and the relative miniscule level of federal funding provided, were needed to ensure equal treatment of females and males in the nation's schools and colleges. Networks were formed and others strengthened and mobilized; strategies were developed and have undergone changes--all involved in efforts to effect educational policy and establish new legislation to bring about actual rather than solely idealized social reform.

The purpose of this article is to present a case study of political action as well as follow-up activities that transpired in one state, California, on the part of women and some men in initiating and seeing to the passage of legislation providing for a "State Title IX" law.[1] The Bill, A.B. 3133, was initiated in October, 1981 by one female sex equity advocate and was signed into law as Chapter 1117, the Sex Equity in Education Act, in September, 1982. The law became effective on January 1, 1983, becoming one of the most comprehensive of all of similar laws found in thirteen other states having such a law at the time. This article also provides a brief account of follow-up action which occurred as a result of women organizing and preparing a model for implementing the new law through Project ARISE, funded by the Women's Educational Equity Act as a project of the California Equity Council.[2]

The Need. Prior to the Grove City College decision in early 1984, many pro-equity advocates had been concerned about the slow progress being made in effecting sex equity in the nation's schools and institutions of higher eduation as well as in the workforce. While some significant advances had been made, there were areas of slow or non-existent growth. Some examples of each are:[3]

* the proportion of women enrolled in traditionally male vocational education courses increased from 5% to 11% between 1972 and 1978;

* in four-year colleges, the enrollment of women increased from 43 to 49% from 1972 to 1979; at two-year colleges, it increased from 44 to 54%;

* women earned half of all Masters degrees awarded in 1980 in contrast to two-fifths in 1972; they earned nearly one-third of all Doctoral degrees in 1980 while only one-sixth in 1972;[4]

* the percentage of professional degrees earned by women quadrupled from 1972 to 1980--one sixteenth to one-fourth;[4]

* women held 13% of school principalships in 1974 and 14% in 1978;

* women were less than 1% of the roughly 16,000 school district superintendents;

* no increase was gained in the percentage of women as full professors from 1975 to 1981, although there were some improvements in lower ranks;

* salary increases for women have lagged behind men's and their actual earnings have declined in recent years;

* the number of women as college and university presidents has increased from 148 in 1975 to 219 in 1980, a 48% increase;

* the proportion of girls in high school interscholastic sports increased to 35% in 1981 from 7% in 1971;

* females constituted 30% of all participants in intercollegiate athletic programs while being only 15% before 1975;

* 500 colleges offered athletic scholarships to women in 1980 compared to 60 seven years before.

More recent figures on women's employment and education show some gains but also areas of very slow growth:[4]

* From 1975 through 1984, the United States civilian labor force grew by 21%. Women contributed more than 62% of the total growth as their numbers rose from 37 million to 50 million;

* In 1975, women constituted only 22% of executive, administrative, and managerial positions but by 1984 that share had risen to 34%;

* The earnings ratio between the sexes increased by 5 percentage points between 1975 and 1983 to 64 cents on the dollar.

Equity advocates were also concerned with the relative percentages of women and men in teaching and administrative positions. Recent figures show:

* 83% of all elementary teachers are women; 63% of all women teachers are in elementary schools; 49% of all secondary teachers are women, but sex-segregated in subjects; 83% of all math and science teachers are men (Grant and Eiden, 1982);

* 1.8% superintendents and assistant superintendents are women, 165 of principals are women, and 28% of School Board members are women (Jones and Montenegro, 1982);

* 18% of elementary principals and 7% of secondary principals are women (Howard, 1980; Lovelady-Dawson, 1981).

Clearly, advances were being made, but there was still work to do. And with the Grove City College v. Bell case before the Supreme Court as well as other cutbacks in the U.S. Department of Education budget for women's programs and educational non-discrimination and desegregation assistance programs, protection at a state-level was perceived to be needed.

Development and Enactment of the California State "Title IX" Bill. The initiation of the development of a California State Title IX Bill came from one woman, Phyllis Cheng, who while serving as Executive Director of the Commission for Sex Equity for the Los Angeles Unified School District, visited the State of Alaska in 1981. While there, she learned of that state's enactment of its State Title IX law. Returning to California, Ms. Cheng started the wheels in motion for a similar law to be enacted in California.

Conducting research into such laws in other states, national models, and what was present in the 30 codes pertinent to sex discrimination in California, she learned that California had no equivalent to Title IX. She also learned of existing state statutes and that in most states having Title IX-type of laws, the educational equity laws included discrimination by race, national origin, and religion (NOW Legal Defense and Education Fund, 1979) Ms. Cheng also read a comprehensive analysis of various approaches to achieving sex equity in states (Chief State School Officers - Resource Center on Sex Equity, 1982). She then contacted and gained agreement from the Los Angeles NOW (National Organization of Women) Educational Task Force and later California NOW to become the chief organizational sponsor for the new Bill. Within two months of having visited Alaska, Ms. Cheng, with the assistance of NOW, secured the agreement of California State Assemblyman and Majority Floor Leader Mike Roos (D-Los Angeles) to sponsor the Bill. Throughout the next month, Ms. Cheng worked with NOW and Assemblyman Roos' staff in writing and revising A.B. 3133. The purpose of the Bill became to parallel and even go beyond the federal Title IX law in its inclusiveness of coverage of educational institutions, not just specific programs and activities, and the coverage of instructional materials which was not found in Title IX. A.B. 3133 also mandated the issuance of regulations by the State Department of Education, the Chancellor's Office of the Community Colleges, the Trustees

of the California State University and Colleges, and with the Regents of the University of California, being independent from the State Government, having to issue regulations in accordance with a resolution made by the Regents.

The introduction of the Bill to the California State Assembly in early 1982 was in a time of fiscal conservatism and during an election year. The political tenor followed the lines of educational quality and excellence rather than solely one of or aligned with equity priorities. This also was the last possible year for ratification of the ERA as well as a time in which increasing numbers of women were tossing their hats in the political ring. Assemblyman Roos introduced the Bill which resulted in the Bill's securing of 26 bipartisan legislator co-authors in both legislative houses, including the Speaker of the Assembly and the Senate President Pro Tempore.

The next step taken was to enlist the support of other women's organizations with labor, education, student, and legal interest to cosponsor the Bill. This strategy provided for a wide and varied influence among different constituencies.[5]

Following this, Ms. Cheng developed "call-to-action" alert packages for the various groups to use, including instructions and deadlines for lobbying members of the two legislative houses and the Governor, sample letters, and addresses of the legislative committee members. She also met

with key legislative committee members and organized groups to testify before relevant legislative committees in addition to accompanying Assemblyman Roos' staff and NOW's lobbyist to meetings and negotiations with representatives of those educational institutions to be impacted by enactment of A.B. 3133. As a result of these political strategies, the Bill met with little or no opposition during the committee hearings.

The last strategy taken in ensuring passage of the Bill ws that of assuring the legislators that there would be minimal financial burden to the state and that this one law, if passed, would serve as an umbrella law to existing laws, regulations, compliance, and enforcement measures. In her testimony to the Assembly Educational Committee, Ms. Cheng stated:

> "The goals of A.B. 3133 are consistent with state education goals. First, the bill is intended to address the issue of educational excellence for female and male students. At a time when stress must be placed on academic training, math and science, vocational and business training, A.B. 3133 would expand such opportunities for female students who have been underrepresented in such fields. Second, the bill would provide for access to educational equity, a necessary goal when diminishing resources threaten the civil rights of under-represented groups. Third, the bill would complement the goal to cut down on administrative red tape by providing a more effective and efficient method to assure compliance with many similar laws on sex discriminatin without repealing the intent of any of the laws...A.B. 3133 should not pose any additional implementation costs for educational institutions already required under Title IX. As state education block grants are instituted, the definitions of federal and state financial assistance will be more intertwined."[6]

The Bill passed in the Assembly in June, the Senate in August which was concurred by the Assembly with a vote of 67-2 on August 26--Women's Equality Day, and was signed into law by the Governor at a special press conference for bills related to women's issues in September, 1982. The Bill became effective as Chapter 1117 of the Statutes of 1982 on January 1, 1983 and became known as the Sex Equity in Education Act. At this time, California joined thirteen other states in having "State Title IX" laws.[7]

Benefits. Besides providing for parallel coverage to Title IX, Chapter 1117 now prohibited sex discrimination in the whole educational institution--not just programs and activities, removing it from having a narrow interpretation imposed on it as happened with Title IX. Also, it became necessarily linked to state, rather than federal, financial assistance. The new law, as established, went beyond Title IX in coverage of instructional materials. Also, of interest administratively and legally, it has four major benefits in its provision of: 1) a consistency of policy in the use of both federal and state funds which is important given that there has been an increasingly greater responsibility placed on states and local governments for educational policy and funding; 2) a comprehensive means to battle sex discrimination which in itself demonstrates a certain degree of accomplishment by educational institutions in complying with Title IX; 3) a single and relatively simple means for assuring compliance with it and other

related laws for eduational institutions applying for state financial assistance; and 4) a single enforcement measure as it can utilize existing measures stipulated by state law, e.g., through Chapter 972 of the Statutes of 1977. Another benefit, more related to program goals, is that pertaining to the issue of educational excellence and equity as the law expands opportunities and provides for access for female students who have traditionally been under-represented in related fields, such as math and science.

With A.B. 3133's becoming enacted as Chapter 1117, equity advocates were not able to rest on their laurels. Although the Grove City College decision had not yet been reached (and would not for over a year), the case was in the news and it had become increasingly clear that having a statute does not guarantee compliance or enforcement by governmental bodies. What was needed was further networking and other strategies to ensure that the intent of the law become a reality in the educational institutions of California. It was determined by those involved that to do so meant a statewide effort to ensure the promulgation and implementation of regulations which would also be used, through a "ripple effect," to provide a model for other states to use in adopting and implementing similar laws and regulations.

Project ARISE. The means by which Ms. Cheng and others decided to assist in effecting the operationalizing of Chapter 1117 was to develop model regulations which could

then be used expeditiously in developing the official ones by the educational agencies involved. Funding for this endeavor came through a WEEA (Women's Educational Equity Act) grant for Project ARISE (Assistance in Regulatory Implementation of Sex Equity) to the California Equity Council in January of 1984. Project ARISE was charged with aligning the thirty-odd extant and discrete statutes under one set of comprehensive regulations which was viewed as providing the potential for streamlined enforcement and maximization of impact but with minimization of costs. Project ARISE, thus, in early 1984 set out to accomplish the following:

1) to prepare a comprehensive analysis of extant laws and regulations which would include the relationship between the state and federal Title IX laws and regulations and which would be provided to the four educational agencies responsible for developing regulations under Chapter 1117; 2) to establish a statewise advisory committee through which representatives of business, labor, government, education, and women's organizations[8] would develop proposed regulations; 3) to develop summaries of the drafted and approved model regulations; and 4) to prepare for and disseminate to all affected educational agencies information packets on the related laws and regulations and the final model regulations.

In addition to the above, Project ARISE was charged with providing technical assistance and information

dissemination to the affected agencies in preparing final regulations.

Project ARISE met its objectives during its funding year and submitted its analyses and model regulations in early 1985 as the Model Regulations Handbook: A Guide to Implementing the SEEA and Title IX (edited by Abby J. Leibman, Executive Director, California Equity Council). The purpose of the Handbook, as stated on p. 1, is:

> "...to provide assistance to educational institutions, educators, administrators, students and the public in understanding the scope of California's Sex Equity in Education Act (SEEA), the relationship between state and Federal Title IX (20 U.S.C> Sec. 1681-1686) requirements and the means to implement those requirements.
>
> These provisions were developed as a model for implementing California's SEEA, but are readily applicable to other state Title IX statutes or a review of the Federal Title IX provisions... In addition, each subpart has a detailed examination of the language used and its relationship to comparable Title IX provisions and other California laws."

Thus, model regulations were written and have been disseminated, although official state regulations have yet to be issued. Political action on the part of equity advocates--individuals and organizations, spearheaded and initiated by women--did produce some results. A new law was created in less than a year's time. Funding was gained to prepare model regulations, hopefully to facilitate the eventual promulgation and utilization of official regulations. State-wide, local and national networks and organizations contributed to the political as well as develomental work. One woman's efforts at initiating a

process to effect a major change--that of bringing about a greater assurance of educational as well as societal equity--made significant difference. However, once again, further work is needed. The final state regulations need to be issued. Women and men, wanting to make a difference, still have work to do in taking substantive steps to ensure actual, not just intended and stated, social reform.

NOTES

[1]Much of the material used in preparing this article was taken from the following: Cheng, Phyllis, "The Second Wave: Shaping State 'Title IX' Laws: The California Case Study," paper presented at the American Educational Research Association 1984 Mid-Year Conference Special Interest Group: Research on Women and Education, Long Beach, CA, November, 1984; Project ARISE: Model Project on Title IX Compliance, a proposal submitted to the Women's Educational Equity Act Program, U.S. Department of Education, April, 1983; and from the author's involvement as President, Board of Director, California Equity Council.

[2]The California Equity Council is a non-profit public service corporation in California.

[3]Report of the National Advisory Council on Women's Educational Programs, 1982, as reported on in Project ARISE: Model Project on Title IX Compliance, p. 1.

[4]"Trends in the Employment Status of Women during the United Nations Decade for Women, 1976-1985," Facts on U.S. Working Women, U.S. Department of Labor, Women's Bureau, Fact Sheet No. 85-1, July, 1985.

[5]These organizations included: Asian Pacific Women's Network, Los Angeles; Association of Health, Physical Education and Recreation; California Commission on the Status of Women; California Federation of Teachers; California State University and Colleges, Student Lobby; California Teachers Association; California Women Coaches Academy; California Women and Girls in Sports; Center against Sex Discrimination; Center Against Sexual Harassment; Hispanic Women's Council; Los Angeles Mayor's Education Committee; Los Angeles Unified School District; United Teachers of Los Angeles; University of California,

Associated Students; Women in Educational Leadership; Women Educators'; Women For; Women's Legal Clinic; Women Trial Lawyers Association, Sacramento; and YWCA of Los Angeles.

[6]excerpt from "Testimony before the California State Assembly Education Committee in Support of A.B. 3133," by Phyllis Cheng, California National Organization for Women, Sacramento, April 13, 1982.

[7]These other states were Massachusetts, Washington, Connecticut, Hawaii, Illinois, Iowa, Minnesota, Alaska, New Jersey, New York, Oregon, Pennsylvania, and Montana.

[8](some of the representatives being or from: President of the California Teachers Association; member of the California Commission on the Status of Women; Staff Counsel to the California Community Colleges; Vice President of National Productions, KCET; State Senators; State Coordinator of NOW; Vice President of Education, California PTA; member of Jewish Federation Council; professor from University of California; Sex Equity Specialist from Los Angeles County Department of Education; Vice President of Business and Professional Women, Los Angeles; Consultant, Title IX Office, State Department of Education; Executive Director, National Council of Jewish Women; representative from Labor Institute of Public Afairs; representative from San Diego Unified School District; representative from Korean Community Center; Director of EQUALS; Deputy Attorney General; representative from Asian Pacific Women's Network; an acting professor, UCLA School of Law; President, San Diego NOW; President, Trident Enterprises; Lieutenant Governor; President, County Supervisors Association of California; representative of Coalition of Labor Union Women; an Assemblywoman; a Los Angeles City Councilwoman; Chair, San Francisco Commission on the Status of Women; Executive Director, American Civil Liberties Union; representative from Mexican American Legal Defense and Education Fund; an Assemblyman; President, Los Angeles County Commission on the Status of Women; Executive Director, Hispanic Women's Council; President, American Association of University Women, California; Systemwide Affirmative Action Officer, California State University and Colleges; President, Comision Feminil; Curriculum Specialist, Constitutional Rights Foundation; President, California Federation of Teachers; Education Director, League of Women Voters.

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